

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 63-119 are pending in the present application, Claims 63-69, 72-91, 93-99, and 101-119 having been amended, and Claims 120-124 having been canceled without prejudice or disclaimer, and Claims 68-71, 75-77, 83-86, 89, 90, 93, 95-99, and 102-119 having been withdrawn. Support for the present amendment is found, for example, at page 3, line 27 to page 4, line 2, page 11, lines 16-18, page 12, line 29 to page 13, line 2, page 20, lines 6-9, page 28, lines 8-12, and page 33, lines 7-15 of the specification. Applicant respectfully submits that no new matter is added.

In the outstanding Office Action, the drawings were objected to; the title of the application was objected to; Claims 63-67, 72-74, 100 and 101 were objected to; Claim 94 was rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement; Claims 63, 64, 67, 73, 74, and 100 were rejected under 35 U.S.C. §102(b) as anticipated by Rauch et al. (U.S. Patent No. 5,408,355, hereinafter Rauch); Claims 63, 64, 67, 73, and 100 were rejected under 35 U.S.C. §102(b) as anticipated by Garcia (U.S. Patent No. 6,220,561); Claims 65 and 72 were rejected under 35 U.S.C. §103(a) as unpatentable over Rauch in view of Miller (U.S. Patent Publication No. 2002/0171327); Claim 66 was rejected under 35 U.S.C. §103(a) as unpatentable over Rauch in view of Clark et al. (U.S. Patent No. 6,384,952, hereinafter Clark); Claims 78, 79, 82, 88, and 92 were rejected under 35 U.S.C. §103(a) as unpatentable over Rauch in view of Fleming (U.S. Patent No. 5,867,302); Claims 80 and 87 were rejected under 35 U.S.C. §103(a) as unpatentable over Rauch in view of Fleming, and further in view of Miller; Claim 81 was rejected under 35 U.S.C. §103(a) as unpatentable over Rauch in view of Fleming, and further in view of Clark; Claim 94 was

rejected under 35 U.S.C. §103(a) as unpatentable over Rauch in view of Miller; and Claim 101 was rejected under 35 U.S.C. §103(a) as unpatentable over Rauch in view of Fleming.

Applicant thanks the Examiner for the courtesy of an interview extended to Applicant's representative on October 8, 2009. During the interview, differences between the present invention and the applied art, and the rejections noted in the outstanding Office Action were discussed. No agreement was reached pending the Examiner's further review when a response is filed. Arguments presented during the interview are reiterated below.

Applicant respectfully submits that the objection to the drawings is moot in view of the amendment to Claim 65. Accordingly, this ground of objection should be withdrawn.

With respect to the objection to the title, a new title is provided. Thus, the objection to the specification should be withdrawn.

With respect to the objection to the claims, the claims are amended to remove the word "possibly" from Claim 63. Thus, this ground of rejection is believed to be overcome.

With respect to the rejection of Claim 94 under 35 U.S.C. §112, first paragraph, Applicant respectfully traverses this ground of rejection. The specification (Fig. 5 and its' corresponding description at page 16, lines 4-9 of the specification) enables a person of ordinary skill in the art to make and use the invention defined by Claim 94. Thus, this ground of rejection should be withdrawn.

With respect to the rejection of Claim 63 as anticipated by Rauch, Applicant respectfully submits that the amendment to Claim 63 overcomes this ground of rejection.

Amended Claim 63 recites, *inter alia*,

at least one mobile electrode, comprising at least one mobile part that is flexible and free to move with respect to a substrate;

at least two fixed electrodes, fixed with respect to the substrate, wherein the at least two fixed electrodes are located on a same side of the mobile electrode and each facing the mobile part of the mobile electrode; and

means for forming at least one pivot of at least one portion of the mobile electrode,

wherein each of the at least two fixed electrodes are configured to progressively force the mobile part of the mobile electrode facing each of the fixed electrodes, respectively, to contact the substrate as a function of applied voltage, and

the mobile part bears on the means forming at least one pivot when one of the fixed electrodes attracts a first portion of the mobile part of the mobile electrode facing the fixed electrode, and another portion of the mobile part of the mobile electrode is configured to move away from the substrate by mechanical return forces.

Rauch does not disclose or suggest every element of Claim 63.

In Claim 63, the mobile part of the mobile electrode is forced to contact the substrate by the fixed electrodes as a function of applied voltage. Moving part 1 of Rauch is not disclosed as contacting substrate 11.

Furthermore, moving part 1 of Rauch is not itself flexible. Rather, moving part 1 of Rauch is connected to spring elements 6, which are not part of a mobile electrode. Thus, moving part 1 of Rauch does not equate to the claimed “at least one mobile part that is flexible.”

Furthermore, no part of moving part 1 of Rauch moves away from the substrate by mechanical return forces. Rather, due to the restoring force of the springs 6, the moving part 1 would be moved toward the substrate by the springs 6.

In view of the above-noted distinctions, Applicants respectfully submit that amended Claim 63 (and any claims dependent thereon) patentably distinguishes over Rauch.

With respect to the rejection of Claim 63 as anticipated by Garcia, Applicant respectfully submits that the amendment to Claim 63 overcomes this ground of rejection.

Garcia does not disclose or suggest every element of amended Claim 63.

In Garcia, micromirror 601 is not a “mobile electrode, comprising at least one part that is flexible.” Rather, micromirror 601 is a rigid body. Thus, micromirror 601 does not equate to the claimed “mobile part that is flexible” and “the mobile part bears on the pivot.”

During the above-noted interview, reference was made to capacitors 904 (which are also shown but not labeled in Figs. 10A-10C). However, capacitors 904 do not bear on the pivot. Thus, capacitors 904 do not equate to the claimed “mobile part that is flexible” and “the mobile part bears on the pivot.”

In view of the above-noted distinctions, Applicants respectfully submit that amended Claim 63 (and any claims dependent thereon) patentably distinguishes over Garcia.

With respect to the rejection of Claim 78 as unpatentable over Rauch and Fleming, Applicant respectfully submits that the amendment to Claim 78 overcomes this ground of rejection. Claim 78 recites, *inter alia*,

a mobile part that is flexible and free to move with respect to a substrate, the mobile part including at least two electrodes, separated by an electrically insulating portion;

at least one fixed electrode, fixed with respect to the substrate, wherein the at least one fixed electrode is located on a same side of the mobile part, the at least one fixed electrode including a first part and a second part disposed to face a corresponding one of the electrodes of the mobile part; and

means for forming at least one pivot of at least one portion of the mobile part,

wherein each of the first part and the second part of the at least one fixed electrode is configured to progressively force the corresponding electrode of the at least two electrodes in the mobile part to contact the substrate as function of applied voltage, and

the mobile part bears on the means forming at least one pivot when one of the fixed electrodes attracts one of the electrodes of the mobile part, the other electrode of the mobile part being free to move away from the substrate by mechanical return forces.

Rauch and Fleming, taken in proper combination, do not disclose or suggest every element of amended Claim 63.

The combination of Rauch and Fleming does not disclose or suggest the claimed “wherein each of the first part and the second part of the at least one fixed electrode is configured to progressively force the corresponding electrode of the at least two electrodes in the mobile part *to contact the substrate* as function of applied voltage.”

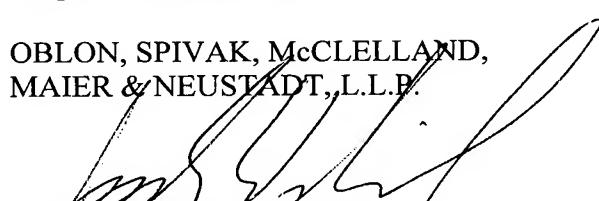
In view of the above-noted distinctions, Applicants respectfully submit that amended Claim 78 (and any claims dependent thereon) patentably distinguishes over Rauch and Fleming.

Addressing each of the further rejections, each of the further rejections is also traversed by the present response as no teachings in any of the further cited references to Clark and Miller can overcome the above-noted deficiencies of Rauch, Garcia, and Fleming. Accordingly, it is respectfully requested that those rejections be withdrawn for similar reasons as discussed above.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, L.L.P.

  
Philippe J.C. Signore, Ph.D.  
Attorney of Record  
Registration No. 43,922

Customer Number  
22850

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 07/09)

Joseph Wrkich  
Registration No. 53,796